



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

June 5, 1996

Mr. Novert A. Morales
Assistant City Attorney
City of Midland
P.O. Box 1152
Midland, Texas 79702-1152

OR96-0893

Dear Mr. Morales:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 40267.

The City of Midland (the "city") received a request for "Midland Police Department Case No. 9108310053 and Case No. 9108190046." You have released to the requestor a copy of the report for Case No. 9108310053, but you state that the city objects to releasing the report for the other case. You contend that with the exception of "front page" information, the report at issue is excepted from public disclosure under section 552.108 of the Government Code.

Section 552.108(a) excepts from disclosure information held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime. When applying section 552.108, this office distinguishes between cases that are still under active investigation and those that are closed. Open Records Decision No. 611 (1992) at 2. In cases that are still under active investigation, section 552.108 excepts from disclosure all information except that generally found on the first page of the offense report. *See generally Houston Chronicle Publishing Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.--Houston [14th Dist.] 1975), writ *ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976); Open Records Decision No. 127 (1976). Once a case is closed, information may be withheld under section 552.108 only if its release "will unduly interfere with law enforcement or crime prevention." *See Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977); Attorney General Opinion MW-446 (1982); Open Records Decision Nos. 444 (1986), 434 (1986).

You state that Case No. 9108190046 "is still under active and current investigation by the Midland Police Department." Accordingly, the city may withhold from public disclosure all information in the case report except that generally found on the first page of the offense report. You state that the city has already made the "front page" information, highlighted in yellow on the report submitted to this office, available to the requestor. However, we note that the highlighted portions of the report do not account for all the types of information that the city is required to release, such as a detailed description of the offense. We stress that the city must release the type of information deemed public by the *Houston Chronicle Publishing Co.* case regardless of its location within an investigation file. The content of the information determines whether it must be released in compliance with the *Houston Chronicle Publishing Co.* case, not its literal location on the first page of an offense report. For your reference we have enclosed a summary of Open Records Decision No. 127 (1976), which lists the types of information that the city must release from the report at issue.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Karen E. Hattaway
Assistant Attorney General
Open Records Division

KEH/ch

Ref.: ID# 40267

Enclosures: Submitted documents
Summary of Open Records Decision No. 127 (1976)

cc: Ms. Mary E. Worley
2923 Chisum
Odessa, Texas 79762
(w/enclosure - Summary of Open Records Decision No. 127 (1976))